

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

CHASE BARFIELD, et al.)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:11-cv-4321NKL
)	
SHO-ME POWER ELECTRIC)	
COOPERATIVE, et al.)	
)	
Defendants.)	

**REPORT OF THE CLAIMS ADMINISTRATOR ON CLAIMS STATUS IN THE
SHO-ME CLASS SETTLEMENT AGREEMENT AND MOTION TO RESERVE
\$190,000 FOR FINAL ADMINISTRATIVE EXPENSES AND CLAIMS**

On November 15, 2018, the Court entered an order and judgment (Doc. 929) approving the Sho-Me Class Settlement Agreement (the “Settlement Agreement”) (Doc. 917-1). Under that order, the Court retained exclusive, general, and continuing jurisdiction over the parties to the Settlement Agreement and to administer the Settlement Agreement. (Doc. 929 at 9, p. 23). Pursuant to the Court’s order and judgment, the Claims Administrator mailed 4,457 claim forms to class members on January 14, 2019. (Doc. 935-1 (Straup Dec.)). The claim submission deadline was May 14, 2019. (*Id.*).

The purpose of this motion is to present a report of the Claims Administrator and to request a reserve of \$190,000 be established to cover estimated final Administrative Expenses and reasonably anticipated additional claim submissions, which will permit the calculation of Supplemental Benefit awards at this time and facilitate payment of claims to Class Members in the near future. The Administrative Expenses paid thus far, plus the requested reserve, is less than the initial estimate of Administrative Expenses Class Counsel provided in moving for preliminary approval of the Settlement Agreement.

I. Summary of Key Financial Terms of the Settlement Agreement and Prior Orders

The Settlement Agreement is a lump-sum settlement under which no funds revert to the Sho Me Defendants. The key financial terms of the Settlement Agreement relevant to this motion are as follows, with capitalized terms having the meaning assigned in the Settlement Agreement:

- The gross value of the Sho-Me settlement is \$25 million.
- Class Member compensation is based on the Net Fund Amount (Settlement Fund minus Administrative Expenses and the Fee and Expense Award). (Doc. 917-1, p. 7).
- Class Members with Qualified Claims are entitled to a minimum compensation of per foot for each Qualified Claim, which will be evenly divided between Future and Past Use Benefits. (Doc. 917-1, p. 11).
- Supplemental Benefits will also be paid to Class Members with Qualified Claims to the extent a portion of the Net Fund remains at the end of the claims process. (Doc. 917-1, p. 11).
- At the time Class Counsel moved for approval of the Settlement Agreement, Class Counsel estimated that Administrative Expenses that have been incurred or will be incurred was \$700,000. (Doc. 917, p. 9).
- On November 20, 2018, the Court made a Fee and Expense Award and approved reimbursement to Class Counsel of previously advanced Administrative Expenses of \$285,718. (Doc. 931, p. 12). The Court approved Class Representative service awards of \$30,000 total that also qualify as Administrative Expenses. (*Id.* & Doc. 925).

II. Report of the Claims Administrator

A Report of the Claims Administrator is attached to this Motion as Exhibit A, and a supporting declaration by Cindi Straup (Declaration) is attached as Exhibit B. In summary, the Report and Declaration provide the following information:

1. Page 1 of the Report shows various statistics on the Claims Administrator's multifaceted communications with Class Members about the Settlement Agreement and the claims process. (Ex. A, Report, p. 1).
2. As of September 9, 2019, the Claims Administrator has received 1,286 phone calls, 146 items of correspondence, and 115 emails. (*Id.*).

3. The website established by the Claims Administrator (www.missouriclass.com) has been visited 3,059 times. (*Id.*)
4. On January 14, 2019, the Claims Administrator mailed a total of 4,457 claim forms in connection with the Settlement Agreement. (*Id.*)
5. On May 1, 2019, the Claims Administrator mailed a total of 2,952 reminder post cards to Class Members who had not yet submitted completed claim forms. (*Id.*)
6. As of September 9, 2019, more than 66% of the total number of miles of land with fiber optic cable used for commercial telecommunication purposes has been the subject of claim form submissions. (*Id.*)
7. Approximately 283 claim forms remain incomplete, missing information such as Social Security Number or tax ID needed for payment, or death certificate information for deceased owners the claimant asserts should be removed from the benefit check. The Claims Administrator is following up with those Class Members to obtain necessary information. (*Id.*; Ex. B, Declaration, ¶9)
8. Since approval of the Settlement Agreement, the Claims Administrator has provided services, and been paid, for additional Administrative Expenses of \$155,062.79, bringing the total of Administrative Expenses paid thus far to \$470,780.79. (Ex. B, Declaration, ¶10).
9. The Claims Administrator estimates that a reserve of \$170,000 is needed for Administrative Expenses to complete work administering the Settlement Agreement, which would bring the total Administrative Expenses to \$640,780.79, or approximately \$59,000 less than the \$700,000 initially estimated. (*Id.*, p. 11).
10. The Claims Administrator recommends retaining \$20,000 of the Settlement Fund in a reserve for additional Qualified Claims. Although the deadline for claims submission has passed, in administering the nearly identical KAMO Settlement, several excusably late claims were submitted later in the process, and the interests of justice favored paying Benefits to those Class Members. These late submissions included Qualified Claims where there had been a recent death or Class Member who had been in the hospital, or a documented claim of non-receipt for direct mail of the claims form. (*Id.*, ¶12).
11. Page 2 of the Report shows an estimate of Supplemental Benefits payable assuming a reserve of \$170,000 for additional Administrative Expenses and of \$20,000 for additional Qualified Claims. With these estimates, the additional per foot payment for Supplemental Benefits is \$1.81, bringing the total per foot benefits for Past, Future, and Supplemental Benefits to \$5.41 per foot. (Ex. A, Report, p. 2; Ex. B, Declaration, ¶13).
12. With approval of the above reserves, the Claims Administrator can authorize issuance of settlement checks to Class Members who submitted Qualified Claims, conduct additional outreach to Class Members with incomplete claim forms, and

undertake other efforts as necessary to complete claims administration in a manner that maximizes the distribution of Benefits to Class Members. (Ex. B, Declaration, ¶14).

13. A further report will be provided to the Court as necessary after settlement checks have been issued, if any Class Members appeal benefit determinations as provided in the Settlement Agreement, or as necessary to carry out directives under the Settlement Agreement and applicable law. (*Id.*, ¶15).

WHEREFORE, Class Counsel respectfully requests that the Court authorize a reserve of \$170,000 for additional Administrative Expenses and \$20,000 for additional claim submissions, and any such other relief that the Court deems just in the premises.

Dated: October 1, 2019

Respectfully submitted,

/s/ Heidi Doerhoff Vollet

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2019 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification to all counsel of record.

/s/ Heidi Doerhoff Vollet